



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

RELEASED: February 4, 2005

DA 05-304

Letter Dated: February 3, 2005

Douglas I. Brandon
AT&T Wireless
1150 Connecticut Avenue, NW
Washington, DC 200036

Re: CALEA Section 107(c) Extension Petition
Deadline for Packet-Mode Communications
AT&T Wireless Services, Inc.
TRS No. 821002

Dear Mr. Brandon:

On April 9, 2004, AT&T Wireless¹ filed a supplement to its pending request for additional time in which to implement packet-mode surveillance capability pursuant to the Communications Assistance for Law Enforcement Act (CALEA).² On July 12, 2004, the Commission received a Statement of Nonsupport filed by the Department of Justice (DOJ) and directed to the AT&T Wireless supplement.³ In pertinent part, the DOJ filing “opposes the granting of any further extension of the CALEA packet-mode compliance deadline for [AT&T Wireless’s] push-to-talk (“PTT”) service.”⁴ DOJ noted, however, that “[AT&T Wireless] has not yet commenced offering its PTT service to the public, nor is it apparent when such an offering might occur.”⁵ In your letter of December 8, 2004,⁶ you stated that “New Cingular does not have a stand-alone PTT extension request pending and, in any event, New Cingular has not yet deployed a PTT service.”⁷ Therefore,

¹ AT&T Wireless became a wholly-owned subsidiary of Cingular Wireless Corporation, and was renamed New Cingular, in October, 2004. *See Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation, WT Docket No. 04-70, Memorandum Opinion and Order, 19 FCC Rcd 21522 (2004).*

² Letter dated April 9, 2004 from Douglas I. Brandon, Vice President, External Affairs and Law, AT&T Wireless, to Marlene H. Dortch, Secretary, FCC. CALEA is codified at 47 U.S.C. § 1001 *et seq.*

³ Department of Justice, Statement of Non-Support Opposing Petition of AT&T Wireless Services, Inc., for Extension of the Packet-Mode Communications Deadline Under CALEA Section 107(c), Docket No. 97-213, July 12, 2004.

⁴ *Id.* at 2.

⁵ *Id.* at 3, citing Scott Moritz, *AT&T Wireless Pulls Back on Push-to-Talk*, TheStreet.com, April 23, 2004, available at <http://www.thestreet.com/pf/tech/scottmoritz/10156283.html>.

⁶ Letter dated December 8, 2004 from Douglas I. Brandon, Vice President, External Affairs and Law, AT&T Wireless, to Marlene H. Dortch, Secretary, FCC.

⁷ *Id.* at 2.

you submit, the issues raised in DOJ filing should not bar Commission acceptance of the AT&T Wireless supplement.⁸

We are sensitive to DOJ's concern that PTT services must be CALEA-compliant. However, because New Cingular has not deployed PTT service, the CALEA compliance issues raised in the DOJ filing are not ripe for decision. Accordingly, we have associated your letter, the AT&T Wireless supplement, and the DOJ filing with the pending packet-mode extension request filed by AT&T Wireless before the recent merger, and are taking no further administrative action at this time. Thus, we are accepting the AT&T Wireless supplement and will address the issues raised in the supplement and the underlying petition⁹ at a future date.

In your December 8, 2004, letter, you represent that any PTT offering to the public by New Cingular will be compliant with the safe-harbor industry standard from the outset. We would not hesitate to act should this prove not to be the case. We encourage New Cingular to notify the Commission at least 30 days prior to making PTT service commercially available, and to describe the approach taken to achieving CALEA compliance for that service. In recognition of the competitive sensitivity of such information, such notification may be filed confidentially.

FEDERAL COMMUNICATIONS COMMISSION

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⁸ *Id.*

⁹ AT&T Wireless Services, Inc., Petition for Extension of the Compliance Date, CC Docket No. 97-213 (filed Sept. 26, 2003).